IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 117 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

NIRMALA BAKUBHAI FOUNDATION

Appearance:

1. INCOME TAX REFERENCE No. 117 of 1989

MR AKIL QURESHI FOR MR MANISH R BHATT for Applicant.

MR RK PATREL for Respondent.

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following questions have been referred for the

opinion of this Court in respect of assessment year 1980-81.

(1) "Whether, on the facts and circumstances of the case, the assessee was entitled to claim exemption u/s.11 of the I.T.Act,1961 in respect of the contribution of Rs.73,375/- to B.M.Institute ?

(2) Whether, the Appellate Tribunal is right in law and on facts in directing the I.T.O. to allow benefit under section 11(2) of the I.T.Act in respect of the sum of Rs.27,886/-?"

2 We have heard Mr.Akil Qureshi, learned Counsel for the revenue and Mr.R.K.Patel, learned Counsel for the respondent-assessee.

3 Our attention was drawn to the decision of this Court in the reference between the same parties which is reported in (1997) 226 ITR 394 and also to the decision dated 16/1/2001 in the case between the same parties in ITR No.238 of 1991. Following the aforesaid decisions, we answer both the questions in the affirmative i.e. in favour of the assessee and against the revenue.

4 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(M.S.Shah, J) (D.A.Mehta,J)

m.m.bhatt